

REMARKS/ARGUMENTS

In view of the following remarks, it is believed that this application is in condition for allowance. If, however, the Examiner believes that there are any unresolved issues, or believes that some or all of the claims are not in condition for allowance, the applicants respectfully request that the Examiner contact the undersigned to schedule a telephone Examiner Interview before any further actions on the merits.

First, the Advisory Action (Paper No. 20090309-1) indicated the following items at issue: (1) the amendments to claims 19 and 21 require further consideration due to the deletion of the "means for" language; (2) that "[t]he period for reply expires 10 months from the mailing date of the final rejection"; and (3) that "[t]he Notice of Appeal was filed on February 27, 2009". Each of the items is addressed below.

With regard to the deletion of the "means for" language, during informal telephone interviews with Examiner Robinson on March 13, 2009 and March 25, 2009, Examiner Robinson indicated that she located the support for the features which replaced the means-plus-function elements (i.e., the "at least one processor and at least one storage device storing processor-executable instructions which, when executed by the at least one processor, perform a method"). In addition, Examiner Robinson stated that the amendment filed on February 27, 2009 would be entered upon filing of a supplemental amendment which explicitly stated the reasons for replacing the means-plus-function elements (and also addressed issues related to the Notice of Non-Compliant Amendment).

Specifically, claims 19 and 21 were rewritten in independent form to include all of the limitations of the base

claim from which they depend in the amendment filed on February 27, 2009. In addition, claims 19 and 21 were amended to replace means-plus-function elements and to include at least one processor and at least one storage device storing processor-executable instructions which, when executed by the at least one processor, perform a method. This amendment is supported, for example, by Figure 11 and page 26, line 13 through page 27, line 16 of the present application. The replacement of the means-plus-function elements was to pre-empt potential 35 U.S.C. § 101 issues, such as those raised by Examiner Mizrahi in the parent application (U.S. Patent Application Serial No. 10/654,265) of the present application.

With regard to the period for reply, the applicants respectfully submit that the reply period should run from the date of the filing of the Notice of Appeal on October 27, 2009 and not from the date of the mailing of the final office action on April 25, 2008. During the informal telephone interview on March 13, 2009, Examiner Robinson agreed and requested that the applicants note this issue in the supplemental response. Furthermore, as this is a supplemental amendment to the amendment filed on February 27, 2009, the applicants respectfully submit that no additional extensions of time or fees are required. However, if the Patent Office believes any additional extension of time is necessary, the applicants hereby request any necessary extension of time for consideration of this amendment. Similarly, if any additional fees are necessary for consideration of this amendment, the Patent Office is authorized to charge any such fees to the deposit account of Straub & Pokotylo, deposit account number 50-1049.

With regard to the filing date of the Notice of Appeal listed on the Advisory Action, the undersigned notes that the ***Notice of Appeal was filed on October 27, 2008***. During the informal telephone interview on March 13, 2009, Examiner Robinson agreed and requested that the applicants note this issue in the supplemental response.

Second, the Notice of Non-Compliant Amendment (Paper No. 20090309-2) indicated the following items at issue: (1) the amendments to claims include strikethrough and double brackets to indicate deletion; and (2) the visibility of claims 23 and 24 were not clear. Each of the items is addressed below.


With regard to the use of strikethrough and double brackets to indicate deleted text, the undersigned respectfully submits that 37 C.F.R § 1.121(c)(2) does not preclude that use of both strikethrough and double brackets. In addition, the undersigned notes that he includes both as a matter of practice to clearly and unambiguously indicate deleted matter, particularly in light of the subjective nature of the statement "if strike-through cannot be easily perceived" included in 37 C.F.R § 1.121(c)(2). During the informal telephone interview on March 13, 2009, Examiner Robinson agreed that the use of both strikethrough and double brackets was acceptable and requested that the applicants note this issue in the supplemental response.

With regard to the visibility of claims 23 and 24, the Examiner indicated that the faxed/scanned copy she received was unclear and that the claims should be resubmitted. This amendment, including the full listing of claims, is being filed electronically to avoid any similar problems.

Conclusion

In view of the foregoing remarks, as well as the amendments and remarks in the previously filed amendment on February 27, 2009, the applicants respectfully submit that the pending claims are in condition for allowance. Accordingly, the applicants request that the Examiner pass this application to issue.

Respectfully submitted,



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